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WRITTEN STATEMENT OF MR. LOYD WRIGHT, CHAIRMAN OF THE COMMISSION ON GOVERNMENT SECURITY, FILED WITH THE POST OFFICE AND CIVIL SERVICE COMMITTEE, U. S. HOUSE OF REPRESENTATIVES, CONCERNING H.R. 8322, H.R. 8323, and H.R. 8334.

Mr. Chairman and Members of the Committee on Post Office and Civil Service. In my oral statement, I summarized for the Committee the reasoning behind some of the principal recommendations of the Commission as set forth in its Report transmitted to the Congress and the President on June 21, and as embodied in the Bills before you. The purpose of this additional statement is to enlarge upon my oral statement for the record and to analyze in greater detail the various chapters and sections of these Bills.

The purpose of each of these Bills is stated to be:

"To establish a Central Security Office to coordinate the administration of Federal personnel loyalty and security programs, to prescribe administrative procedure for the hearing and review of cases arising under such programs, and for other purposes."

Each of these Bills is identical with the exception of certain differences in Section 104, concerning which I will refer later. Also, with the exception of Section 104, H.R. 8322 and 8323 are identical

with legislation proposed by the Commission beginning on page 691 of our report. H.R. 8334 is identical with the legislation we proposed.

Section 2 of each Bill defines certain terms. The definitions are generally clear. I would like to point out particularly, however, as stated in definition No. (7), that the term "civilian employee" means any officer or employee of any executive agency other than the Central Intelligence Agency or the National Security Agency. That wording simply means this: The Commission has recommended a program for civilian employees based on considerations of loyalty. We further recommend that the procedure of this program extend to all civilian employees with the exception of those employed by the CIA and the NSA. These agencies by their very nature must be given the authority to depart from normal security practices. Conversley, they should, of course at a minimum observe the basic standards and criteria relating to removal recommended for all employees.

Chapter 1 and Chapter 2 are concerned with the establishment, functions and operation of a Central Security Office. As stated in our report, the creation of a Central Security Office is perhaps the most important recommendation made by the Commission. We recognize that the implementation of this recommendation would be a major step in the administrative machinery of our government. Because of its great significance I would like to devote a few moments to discussing its necessity and proposed operation.

In brief, the purpose of the Central Security Office would be to provide procedures for the hearing and appeal of security and loyalty

cases and to assist in the coordination of the civilian employees' program, the industrial security program, the port security program, the Commission recommended civil air transport security program, and the document classification program. It would also provide hearing examiners to hear cases concerning organizations the Attorney General proposes to designate on the so-called Attorney General's List. I want to make it abundantly clear at the outset that the Central Security Office would in all matters be advisory only to the heads of the appropriate agencies. It would have no final authority and its recommendations would not be mandatory. Only the President would have the authority to order changes in executive operations. The Commission studied each of these programs individually and as a composite whole. Many deficiencies were discovered in the separate programs and specific recommendations for correction were made accordingly. In addition, our study disclosed many weaknesses that ran across the board and could be found in greater or lesser degree in all of the programs. Some of these defects were, for example —

1. Lack of uniformity in the preparation and application of rules and regulations.
2. Lack of coordination between agencies and between divisions of the same agency.
3. Duplication of forms and records.
4. Duplication of investigations and clearances.
5. Wide dispersion of responsibility among personnel.

6. Lack of training and guidance of personnel.

7. Lack of uniformity in screening procedures.

8. Lack of uniformity in hearing procedures.

In short, perhaps the outstanding thing about our various security programs is their dissimilarity with one another.

Thus for example -- The hearing boards under the civilian employees' security program are composed of government employees having regular normal duties and responsibilities in their own agencies. The Civil Service Commission maintains a roster or panel of more than 1,800 such employees who are available when needed consonant with their regular agency work. Although they are required to be individuals of "integrity, ability and good judgment," certainly fundamental qualifications I hope for any employee, there are no special qualifications for service and no training is required or given.

The Department of Defense and the Atomic Energy Commission, on the other hand, operate their own hearing boards under the industrial security program; and the Coast Guard has a separate system under the port security program. At present there is no air transport security program and, of course, no provision for any hearings at all.

Now while these programs are different in many respects and must of necessity retain certain individual differences, they do have essential similarities. Each program is concerned with the protection of the nation's security from a common enemy -- each program deals with individuals and their right to employment -- each program should be

concerned with ensuring that in its basic elements it provides equal protection for the nation and equality of treatment for the persons it affects.

Yet despite the fact that the Federal Government has operated these programs for years, there is still no central point of coordination -- no provision for insuring that the programs carry out a single government policy with some degree of uniformity.

Similar disparities in operation and lack of uniformity can also be found in the matters of screening, selection of security personnel, training of security personnel, and even in the basic manuals of rules and regulations.

Now I would be ingenuous indeed to deny that these programs have functioned with varying degrees of success. I am confident that through the efforts of the heads of the various agencies, assisted by their security personnel and the members of hearing boards, that many an individual of hyphenated loyalty has been properly removed from the public rolls or denied access to classified information or restricted areas. I realize full well also that there is no advantage in having "uniformity" for the sake of "uniformity" itself. Our studies have shown unquestionably, however, that these programs operating sui juris have been far from efficient, and, in many instances, have been the cause of cruel injustices to individuals and their families because of inept handling of individual cases by inexperienced or untrained personnel, undue delays, and sometimes plain ignorance of the government policy involved.

So much for the negative side of the picture. The fact that our security programs were the subject of grievous complaint was publicly known long before the Commission on Government Security was created. In fact, it was because of these complaints that the Commission was brought into being. Let us consider now the positive advantages to be obtained by the enactment of the legislation before you.

Under Chapter 1 of the Bills before you, the Central Security Office would be an independent office subject to the direction of the President. It would be a small office with a Director, and Assistant Director for Hearings, and an Assistant Director for Administration, each of whom would be appointed by the President. There would be a Central Review Board consisting of three members, also appointed by the President.

The hearing examiners would be selected from a special Civil Service register and would be required to meet such special qualifications as the Commission prescribes after consultation with the Director. Further, each examiner would be obliged to complete a special training course. The examiners would be assigned to hear cases under the civilian employees' loyalty program, the industrial security program, the port security program, and, if the Commission's recommendation is followed, under a civil air transport security program to be established. As indicated previously, they would also conduct hearings concerning organizations proposed for designation on the Attorney General's List.

The Commission felt that the use of specially selected, trained, full-time hearing examiners in such cases is not only an advantage, but a necessity. The hearing of a loyalty or security issue is a grave and often complex matter. The task of sifting evidence; of separating truth from falsehood; of evaluating the significance of past activities and associations; of determining the existence or nonexistence of reasonable doubt or danger to the common defense and security should be entrusted only to specially selected, qualified, full-time examiners. Our experience with hearing examiners under the Administrative Procedures Act, and with special masters in Federal and State Courts, particularly where the issues are complicated, is ample evidence of the benefits to be expected through their use.

The use of hearing examiners in the several programs should promote uniform equitable treatment for persons called before them, insure that the Government's interests are adequately and continuously protected, lessen hearing costs and expedite hearing procedures.

All other employees including the hearing examiners would be appointed subject to Civil Service laws and the Classification Act of 1949, and to the satisfactory completion of a full field investigation by the Civil Service Commission.

Chapter 2 provides for coordination of the Loyalty and Security Programsby the Central Security Office. Under Section 20 the Director would provide training programs for officers and employees of the

Office and instructional conferences for the security officers of the executive agencies. It is fundamental, of course, that the personnel of the Central Security Office itself should be afforded training not only in appropriate technical subjects but in constitutional and related matters affecting Federal service. The instruction of agency security personnel is similarly important. Today there is no governmental training program, formal or informal, and the degree of indoctrination and instruction furnished varies from agency to agency and program to program. It is not the Commission's suggestion that formal training for security personnel be provided through or conducted by the Central Security Office. It does believe, however, that conferences for the purpose of briefing on current problems and discussion will help immeasurably in increasing the efficient operation of each program and uniformity throughout.

Under Section 21 the Director would conduct continuing surveys and inspections of the regulations and the practices and procedures of executive agencies in the operation of loyalty and security programs -- including among other matters screening practices, training programs, and the classification of documents.

The surveys would be used to determine for example whether existing classification procedures result in overclassification of information and whether they effectively provide for the declassification of information when the need for its classification has ended.

This is a matter of vital significance. The tendency of some agencies to overclassify or to retain information in a classified category longer than required must be subject to a continuing check to insure that declassification procedures have been provided and are in fact in operation. The maximum information concerning government operations must be freely available to the Congress, public and the press. It is very important that the Congress, as well as the agencies involved, thoroughly understand that it is not the intention of the Commission on Government Security that the Central Security Office employees will have any authority to examine individual files or documents in any agency other than those concerned with such procedures and practices.

Under Section 22 the Director would receive, evaluate and investigate complaints made by Government contractors concerning requirements imposed on them for security reasons. The Director would endeavor to work out problems with the contractors and the appropriate agencies.

Under Section 23 the Director would compile and maintain statistical records concerning essential developments in the loyalty and security programs. The compilation and correlation of statistics is one of the principal means of judging the operation and effectiveness of any program. The Commission felt that statistics should be particularly maintained for the use of the Director and for the information of the Congress and the President.

Section 24 is of great importance. It gives the Director the responsibility to promulgate rules and regulations for the conduct of employees of

the Central Security Office, for the conduct of hearings and review proceedings, and finally, in consultation with the Government departments and agencies, to furnish advice and guidance for the purpose of establishing uniformity in the loyalty and security programs generally. The necessity of bringing a high degree of uniformity to the various sets of rules and regulations appeared obvious to the Commission. In the industrial security program, while there are basic industrial security manuals, each of the three military services issue their own interpretative guides and regulations -- the Atomic Energy Commission has its own set of regulations. In the Civilian Employees' Security Program each of the more than 60 departments and agencies issue their own regulations. While they are in many ways substantially similar to sample regulations promulgated by the Department of Justice in April of 1953, there are wide discrepancies and there is no procedure for keeping them in line with current overall government policy. While the problems of particular agencies and programs necessitate certain differences in regulations to meet differing situations, coordination through the Central Security Office will help promote uniformity where uniformity is needed, particularly in the application of the loyalty and security standards and implementing criteria to particular fact situations.

Under Section 25 the Director would be obliged to submit an annual report to the Congress and the President on the operation of the Central Security Office and of each loyalty and security program. You will also note that under Section 25 (b):

"Upon request made by the President, the Congress or either House thereof, or any duly authorized committee or subcommittee of either House of the Congress, the Director shall make a special report concerning the operation of any loyalty or security program." (emphasis supplied)

The Commission felt that adequate and intelligent reporting is essential. The Central Security Office activities should be open for inspection, consonant of course with security considerations involved in individual hearing or appeal cases. Adequate statistical and other reporting will give the Director the opportunity to recommend changes believed needed in the various programs as observed from his central vantage point. It will, for the first time, give the Congress and the President the opportunity to keep continuously advised of the developments in and progress of those programs in order that corrective steps may be taken as may be indicated or recommended.

Chapter 3 provides for hearing and review of loyalty and security questions. Section 30 (a) provides that whenever any civilian employee or applicant for employment is entitled by law or executive order to a hearing under the loyalty program, the hearing shall be conducted in accordance with the provisions of Chapter 8. This would be applicable to hearings conducted under the proposed civilian employees loyalty program described in Chapter 4.

Section 30 (b) provides that whenever an individual who is not an employee of an executive agency is entitled under any security program to a hearing, that hearing shall also be conducted in accordance with the provisions of Chapter 8. This paragraph would apply to individuals in connection with the industrial personnel security programs described in Chapter 5, to individuals under the port security program, and to individuals under the air transport security program, if the latter is established by legislation as recommended by the Commission.

Section 30 (c) provides for hearings on request of organizations which may be designated for inclusion by the Attorney General on the so-called Attorney General's List referred to in Section 60 of these Bills. The Commission's recommendation for the retention of the List, with certain modifications, will be discussed later under Section 60.

Section 31 provides for review of adverse decisions in any type hearing by the Central Review Board which would be located in the Central Security Office. The operations of the Central Review Board will be discussed later under Chapter 9.

Chapter 4 outlines the civilian employees loyalty program and the procedures to be observed by an executive department or agency in determining the loyalty of an employee or an applicant for employment. Sections 40 (a), (b), (c), (d), and (e) describe the investigative requirements. No person would be permitted to enter the Federal civilian service until an investigation or national agency check had been completed except where the head of the agency determines an emergency condition justifies exception. In such a case he would be tendered employment conditioned upon a favorable determination as to his loyalty and suitability upon completion of the investigation. In brief, a national agency check would be made with regard to each applicant considered for appointment to or employment in any non-sensitive position. A full field investigation would be made with regard to an applicant considered for appointment to or employment in a sensitive position, or in the case of an employee considered for transfer from a non-sensitive position to a sensitive position. Full field investigations would be made, as is the present practice in most instances, by the Civil Service Commission with the requirement that if an investigation discloses derogatory subversive information, the matter shall be referred to the Federal Bureau of Investigation for a full field investigation by that agency.

This proposed legislation, which is based upon the Commission's recommendations, retains without substantial changes the desirable

features of the investigative requirements of the former loyalty program and the current security program. The loyalty program proposed by the Commission and in these Bills can only be as effective as the quality of the loyalty investigations made and the Commission strongly urges that appointment or employment, based upon the completion of an adequate investigation and favorable determination, be continued.

Section 41 provides for the screening and evaluation of information contained in reports of investigations of civilian employees and applicants for appointment or employment. In brief, this assignment in each agency would be handled by specially qualified personnel. Whenever a screening officer determines that a report contains derogatory information relating to loyalty, the officer shall grant to the individual concerned an opportunity for an interview in which he may offer his explanation of that information. Under present practice there is no requirement that an employee or applicant be interviewed. The Commission's survey indicated that many cases would never have reached the hearing stage with consequent hardship to the individuals involved and needless administrative effort and cost to the Government, if opportunity had been given for employees to explain certain information in investigative reports. It therefore recommended, as these Bills state, that such an interview be a mandatory part of the loyalty procedures.

If, following such interview and additional investigation, if needed, or in the event an interview is declined, or the screening officer determines that the issuance of a letter of charges is justified, he shall prepare and transmit such a letter to the individual which shall be as specific and detailed as the interests of the national security permit.

The letter must also advise the individual of his right to a hearing. Before the letter is issued, however, the screening officer will obtain the opinion of the appropriate legal officer of the agency on its sufficiency as outlined in Section 41 (d) of the Bills.

Under Section 41 (e) if an investigative report discloses information indicating that a civilian employee or applicant may be unsuitable on any ground other than doubt as to his loyalty, such case will be handled in accordance with the regular Civil Service suitability procedures. I should note at this time that one of the basic recommendations of the Commission is that loyalty cases be completely divorced and handled separately from cases which involve elements of personal unsuitability for Federal service. Under the present security program many of the factors to be considered in determining whether an individual is a risk to the national security are regular suitability factors and, in fact, the majority of Federal employees who have been dismissed under the current program as security risks were processed under the regular Civil Service procedures. The Commission's recommendation and these Bills thus would prevent the unjust stigmatizing of persons actually terminated because of general unsuitability for Federal service.

Section 42 describes the procedures to be followed in loyalty hearings and determinations. In brief, whenever an individual has received a letter of charges as described under Section 41, he will have the opportunity to file a sworn answer thereto and request a hearing upon those charges. When a hearing has been requested the agency screening officer shall transmit a copy of the letter of charges and all papers filed by the individual to the Director of the Central Security Office for filing and a hearing in accordance with the provisions of Chapter 8. When

following a hearing the agency head determines that there is reasonable doubt as to the loyalty of the individual, the latter may make written application to the agency head for a review of such determination. The agency head shall forward that request, together with all documents and records pertinent thereto, to the Director of the Central Security Office for review by the Central Review Board. If the individual fails to make timely application for such a review, the agency head determination shall become final and conclusive. This finding shall be binding upon the head of every other executive agency in the absence of a further determination to the effect that new information warrants a rehearing of the individual's case.

Section 43 provides for transfer and suspension of civilian employees. I should note that Public Law 733, 81st Congress, which is the basis of the current security program, requires suspension without pay where derogatory information is developed before an employee can be given a hearing or terminated. Under the provisions of Section 43 where a screening officer receives information which indicates that reasonable doubt may exist as to loyalty of an employee occupying a sensitive position, an effort would first be made to transfer that employee without reduction in salary to a non-sensitive position within the agency. If there is no vacancy permiting such transfer, the employee would be suspended with compensation at his present salary rate. The investigative agency would give priority to the investigation of employees who have been transferred or suspended. If the determination by the head of the agency following a hearing is favorable to a transferred or suspended employee, he shall be returned to

his regular position. If the determination is unfavorable to such employee and there is timely application for review by the Central Review Board, the employee shall be suspended without compensation pending final determination by the agency head following such review. Where an individual has been so suspended without compensation and the head of the agency determines that reasonable doubt of loyalty does not exist, he shall be restored and paid a sum equal to the amount of compensation he would have received for the period of his suspension reduced by the net amount of compensation he actually received for personal services during the suspension period.

One of the unfortunate requirements of the present program is the requirement of mandatory suspension without pay. Hundreds of employees who were summarily suspended under the law have been reinstated with resulting hardship to the employee and expense to the Government. The Commission's recommendations as embodied in this section, by providing for a transfer, if possible, to a non-sensitive position and by suspension without pay only where there has been initial finding of reasonable doubt of loyalty, should therefore benefit both our Federal personnel and the Government.

Section 44 provides that the case of any civilian employee or applicant whose loyalty has been adjudicated or readjudicated under the provisions of Executive Order 10450, upon which the present security program is based, shall not be readjudicated under the provisions of this proposed legislation in the absence of new evidence. The purpose of this section is to eliminate the further harassment of individuals who have already been processed.

Chapter 5 establishes the procedures to be observed in the Industrial Personnel Security Programs. Every Executive agency engaged in the procurement of goods or services from Government contractors shall, if such procurement involves access by contractor representatives to classified information material, or to a security facility, establish and administer a security program to prevent access by untrustworthy individuals to such information, materiel, or facility.

Provision is made that any such Government contractor shall enter into a security agreement under which the contractor will be obliged to withhold from any individual access to information and security facilities of any classification unless that individual holds a security clearance. The contractor must also incorporate in any sub-contracts such security provisions as may be prescribed in the original security agreement with the contracting agency.

Section 51 provides for the investigation of contractor representatives. In brief, security clearance shall not be granted for access to any information or security facility classified Secret or Atomic Secret unless a National Agency check has been made. If such check discloses derogatory subversive information, the matter shall be referred to the FBI for a full field investigation. Security clearance for access to any information or security facility which has been classified as Top Secret or Atomic Top Secret will not be given unless a full field investigation has been made by the investigative organization of the contracting agency or the Civil Service Commission. The disclosure of derogatory

subversive information during such investigation will again necessitate the referral of the case for a full field investigation.

Section 52 provides for the evaluation of personnel investigations under the industrial security program. The procedure is substantially similar to the procedure previously described in connection with the evaluation of personnel investigations under the civilian loyalty program. Provision is made for each case to be screened by specially qualified officers, for the individual in question to be granted the opportunity for an interview, and for the transmission of an appropriately detailed letter of charges.

Section 53 provides for security hearings and determinations. The procedures here are also substantially similar to the procedures set forth in Section 42 regarding civilian employee loyalty hearings and determinations. As in the civilian program, provision is made for a review of an adverse agency head determination and for final determination by the agency head. Such final determination shall be binding upon the heads of all Executive agencies.

Chapter 6 is concerned with the designation of subversive organizations by the Attorney General. The Commission felt that the use of such a list is a necessary part of the investigative process in connection with the various loyalty and security programs. Were such a list not available, the Attorney General would still be obligated to advise the various departments and agencies as to the character of organizations to which employees or applicants for employment belong or have belonged in the past. The Commission also felt, however, that it should sharply

delineate the procedures to be observed by the Government before any organization is designated to the list.

Sections 60 through 66 of the Bills embody the Commission's recommendations. In brief, Section 60 provides that the Attorney General shall maintain a list of the names of organizations determined by him to fall into certain categories.

Section 60 (a) sets forth the criteria to be used by the Attorney General in making this determination. As is the present practice, no organization shall be so determined unless it has been investigated by the FBI and, in addition, has been given an opportunity for hearing and review in conformity with the provisions of this Chapter.

Section 61 provides for appropriate notice of the proposed designation to be given to the organization in question.

Section 62 provides for the notice the organization may file with the Attorney General indicating its desire to contest the proposed designation.

Section 63 provides that the Attorney General shall transmit to the organization a statement of the grounds for the proposed designation and such written interrogatories as he considers necessary to obtain facts pertinent to those grounds. Failure of the organization to respond to such interrogatories shall constitute an acquiescence in the proposed designation. The organization may, however, in connection with its reply to the interrogatories request a hearing before the Attorney General.

Section 64 provides procedures for a hearing. In brief, the hearing would be conducted by a hearing examiner under the supervision of the

Central Security Office and following such hearing the Attorney General shall make his determination. If no timely application for such a hearing is made, the Attorney General may proceed and make a final determination.

Section 65 provides procedures for a review of unfavorable determinations by the Attorney General. Upon the filing of timely application for such a review, the Attorney General shall forward the application and all documents and records pertaining thereto to the Director, for review by the Central Review Board. On receipt of the advisory report of that Board, the Attorney General shall make his final determination. Again, if following a hearing and an unfavorable determination, timely application for review is not made, such determination shall become final upon the expiration of the filing period.

Section 66 provides that any final determination made by the Attorney General in conformity with the provisions of this Chapter shall be conclusive and may not be questioned or reviewed by any officer, Executive agency or court.

Chapter 7, Section 70 (a) sets forth the basic loyalty standard; namely, "No individual may be appointed, employed, or retained as a civilian employee if, upon all information, there is reasonable doubt as to his loyalty to the Government of the United States."

Section 70 (b) sets forth the criteria which may be considered by the appropriate security personnel and agency heads in determining whether there is reasonable doubt as to the loyalty of any individual. As indicated in section 70 (c), the suggested criteria are not all inclusive.

They are set forth merely as guide lines for officials in carrying out their responsibilities.

Much controversy has arisen in the past concerning the significance to be given to the membership of individuals in or the association of individuals with certain organizations. The evaluation of such associations is a difficult task requiring skill and experience in security matters. For the assistance of agency heads and their security personnel, the Commission recommended certain additional considerations which should be taken into account in making such a judgment, and these considerations are set forth in section 70 (d).

Section 71 (a) sets forth the basic security standard to be observed in connection with the various industrial security programs; namely, that security clearance will not be granted "if it is determined in accordance with the provisions of this Act, on the basis of all information, that his possession of such clearance will endanger the common defense and security."

You will note that the basic standard with regard to industrial security programs is a security standard whereas the standard for Federal civilian employees is a loyalty standard. The reason for the distinction is as follows:

> Under the Commission's recommendations, the loyalty program would be complemented by the regular suitability program which is the basis of the Federal personnel system. It was felt, as I indicated previously, that distinction should be made between loyalty and other suitability considerations.

The problem of granting a security clearance, however, involves both loyalty and suitability considerations which the contracting agency

must consider jointly. There are certain suitability disqualifications quite apart from the question of loyalty which would render an individual unfit to be granted access to classified information or security facilities. The Commission felt that under these conditions the standard as recommended would be the most workable.

Section 71 (b) sets forth the criteria which may be considered in determining whether the possession of a security clearance will endanger the common defense or security. The criteria are similar to those set forth with regard to the civilian loyalty program except that certain suitability factors have been included.

Chapter 8 details some of the special procedures to be followed in loyalty and security hearings, the most important of which are:

1. That the determination whether any applicant shall be entitled to a hearing or the determination of questions presented by any letter of charges filed for a hearing shall be governed by the law or executive order applicable to the particular program.

2. That priority of hearing shall be given to cases which involve suspension from duty of civilian employees because of the existence of doubt as to their loyalty.

3. That an examiner shall have the power of a district court of the United States to issue process to compel witnesses to appear and testify and to compel the production of other evidence. This right of subpoena is subject to certain qualifications to which I will refer later.

4. That the individual charged may be represented at his own expense by counsel.

5. That, while the rules of evidence applied by courts need not be applied in hearings, nevertheless the evidence shall not be received unless it is relevant to one or more of the allegations in the letter of charges.

6. That the individual charged may present evidence and rebuttal evidence in his own behalf which may include evidence as to his character and reputation as well as his demonstrated appreciation of the need for the protection of the national security. This latter point is significant particularly in security hearings. The Commission felt that an individual's positive contribution to the national security should be considered along with any factors which may indicate that his access to classified information materiel or security facilities may endanger the national security.

7. Only the examiner, personally assigned for official duty at a hearing, the party charged, counsel for the individual and the Government and witnesses may be present at a hearing. The Commission felt that the informal atmosphere of hearings thus restricted is more conducive to an impartial determination of the facts. Whatever advantages open hearings might offer in protecting the individual's rights have been adequately provided for in the many procedural safeguards afforded the individuals under the proposed loyalty and security programs.

8. A verbatim, stenographic transcript of all proceedings would be made.

9. At the conclusion of a hearing the examiner would prepare a written report which would contain a recitation of the questions involved,

a summary of the evidence received, findings of fact as to each allegation and conclusions. The Commission felt it should be mandatory that the examiner prepare findings of fact. Requiring the hearing examiner to prepare findings of fact will insure that the examiner has actually based his decision on the facts.

10. The report would be forwarded to the Director of the Central Security Office who would transmit it to the head of the executive agency concerned.

11. Confrontation would be provided in larger measure than ever before. In brief, it would be allowed to the maximum extent consistent with the protection of the national security. Only regularly established confidential informants furnishing Government intelligence and security information would be excepted. Even where confrontation is not permitted the substance of the information from such sources and evaluations of the reliability of the sources by the investigative agencies would be put in the hearing record. All other persons who have furnished information would be obliged to appear to personally testify or to give a deposition, or their information would be excluded. If an identified source of information is unavailable because of death, incompetency, or other reason, such information may be considered by the examiner but with due regard for the lack of opportunity for cross-examination.

12. Both the Government and the individual charged would be permitted to subpoena witnesses if the evidence sought is relevant and not merely cumulative except regularly established confidential informants or identified informants who have furnished information on condition they not be called. If, as I indicated previously, an identified informant does not submit to subpoena or to furnishing information by deposition

or interrogatories, this information would be excluded.

Subpoena power hitherto has been unknown in the Federal loyalty and security programs. To insure its effective use, provision has also been made whereby the Government would bear the travel and per diem costs of witnesses subpoenaed by an individual in the event he is finally cleared of the charges against him.

Chapter 9 sets forth the procedures for review and final determination applicable to all loyalty and security programs. It should be noted that the review of any case would be limited to an examination of the report of the examiner in that case and the record of proceedings in the hearing before the examiner. Any member of the three-man Central Review Board who does not concur in the recommendation made by the majority may prepare a separate report. The report of the Board and the separate report of any dissenting member will be forwarded to the head of the executive agency. The determination made by the head of the agency upon the basis of the report or reports so transmitted to him shall be final and conclusive. I want to stress again that the operations of the Central Security Office in all of its phases as in connection with appeals handled by the Central Review Board are advisory only to the head of the interested agency. The operations of the Central Security Office are complementary to the final authority of the agency head and not in derogation of it.

Chapter 10, section 100 provides for an extremely important amendment of the National Security Act of 1947.

This amendment would require the establishment, within the Office of the Secretary of Defense, of a new operating office to achieve consolidation of the industrial security programs of the three armed services into a single, integrated program, controlled, supervised, and operated by an Office of Security.

Under this proposal, there would be a single set of regulations which would cover all the security aspects of the armed forces industrial security program.

Security personnel, including inspectors would be transferred from the Army, Navy and Air Force to work under and be subject to the Office of Security in the Office of the Secretary of Defense for purposes of implementing this program.

In order to insure maximum uniformity, the industrial security provisions of any contract should be subject to approval of the proposed Office of Security.

A single office dealing directly with industry would eliminate duplications, confusion, delay, waste of time and money. Industry is overwhelmingly in favor of dealing with a single office within the armed forces and the Commission believes this can only be accomplished by the location of such an office as an operating unit in the Office of the Secretary of Defense.

Section 101 recommends amending the Atomic Energy Act of 1954 to permit security clearances for contractor representatives under the industrial security program of any other agency to be accepted by the Atomic Energy Commission.

Section 103 provides for the issuance of process by the International Organizations Employees Loyalty Board. The Commission studied the operations of this Board and proposed certain recommendations for changes in its report. As indicated previously, subpoena power heretofore has not been provided in loyalty and security hearings. Section 103 would permit the Board to administer oaths for the taking of evidence, issue subpoenas to compel witnesses to appear and testify and to compel the production of evidence, and to appoint any person to take a deposition upon oral examination or written interrogatories.

Section 104 refers to the Veterans' Preference Act of 1944. H.R. 8322 and 8323 propose to amend both the Veterans' Preference Act of 1944 and the Lloyd LaFollette Act of August 24, 1912. H.R. 8334 proposes to amend only the Veterans' Preference Act of 1944.

The Commission recommendation is in agreement with House Bill 8334 in that it proposes to amend only Sections 14 and 15 of the Veterans' Preference Act.

Under existing legislation the present practice in brief is as follows: When a question of an employee's suitability arises, the matter, if the employee is not a veteran, is handled by the particular agency in accordance with requirements of law and the regulations of the Civil Service Commission. The final decision rests with the head of the agency. Under Section 14 of the Veterans' Preference Act, however, adverse decisions of agency heads may be appealed to the Civil Service Commission by preference eligible veterans. The decision of the Commission is mandatory on the head of the agency.

The Commission on Government Security feels that the provisions of Section 14 not only provide a needless administrative burden but in eliminating the authority of the agency head violate good personnel practice and weaken our entire system of administration.

It should be very clearly understood that the Commission recommendation is not taking anything away from veterans that has been granted them in the way of employment privileges by the Congress on behalf of a grateful nation. It merely recommends that the responsible official of an agency should have the authority to determine whether an employee is or is not unsuitable for retention in the service. At the present time the Civil Service Commission has that authority.

The Commission felt that veterans and nonveterans should be afforded equality of treatment where charges of unsuitability have been made, that it is violative of sound personnel management to vest in an outside agency the final decision as to retention of employees charged with being unsuitable. Surely the responsible official of any agency, in or out of government should have the final authority to remove or suspend employees upon whom he has to depend to perform his duties in a satisfactory manner. The provisions of Section 14 of the Veterans' Preference Act make the decisions of agency and department heads mere formalities. In this connection, I might add that the Hoover Commission reached the same conclusion with the observation that it leads to working situations which are intolerable.

The Commission felt that this matter should be brought to the attention of the Congress for a reexamination. It is the responsibility

of the Congress to determine basic Federal personnel policies in the interest of sound administration. The Commission deliberated the alternative to amending Section 14 as it relates to employees of the Executive Branch of Government and after careful study arrived at the considered opinion that it would be contrary to sound principle and at best an expedient compromise to extend the procedures of Section 14 to all employees. We, therefore, strongly urge the Congress to follow our recommendation as spelled out in H.R. 8334.

I would like to point out that there is no conflict between the Commission recommendation in this instance and the recommendation for hearings and appeals to the proposed Central Security Office. It should be borne in mind that the recommendations of the hearing examiners and the appeals board are to be advisory only to the head of an agency or department. Under the present procedure established by Section 14 the Civil Service Commission has final authority over the head of any agency.

Section 105 would repeal Public Law 733, the Act of August 26, 1950, which is the legal basis for the present security program for civilian employees. Public Law 733, in brief, provides for the summary suspension and termination of an employee of designated agencies whenever the head of an agency shall determine such termination necessary or advisable in the interest of the national security of the United States. The provisions of this statute were extended to all employees by Executive Order 10450, dated April 27, 1953. The Supreme Court limited the provisions of the basic act and the Executive Order, in the case of Cole v. Young by providing that Public Law 733 is applicable to persons in sensitive positions

only. If the Congress enacts the legislation set forth in these Bills before you establishing a loyalty program for civilian employees, Public Law 733 is no longer necessary and should be repealed.